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SUMMARY RECORD OF THE 57th MEETING

Chairman: Mr. CISSÉ (Senegal)

CONTENTS

AGENDA ITEM 103: PROGRAMME OF ACTIVITIES OF THE INTERNATIONAL DECADE OF THE WORLD'S INDIGENOUS PEOPLE (continued)

AGENDA ITEM 100: HUMAN RIGHTS QUESTIONS (continued)

(a) IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS (continued)

(e) CAPITAL PUNISHMENT (continued)

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The meeting was called to order at 10.30 a.m.

AGENDA ITEM 103: PROGRAMME OF ACTIVITIES OF THE INTERNATIONAL DECADE OF THE WORLD'S INDIGENOUS PEOPLE (continued) (A/C.3/49/L.26/Rev.1)

Draft resolution A/C.3/49/L.26/Rev.1

1. The CHAIRMAN said that draft resolution A/C.3/49/L.26/Rev.1, entitled "International Decade of the World's Indigenous People", had no programme budget implications.

2. Ms. TOMKINSON (Australia) announced that the following countries had become sponsors of the draft resolution: Antigua and Barbuda, Bahamas, Barbados, Finland, Greece, Iceland, Marshall Islands, Philippines, Portugal and Spain.

3. Paragraph 5 had been revised to read

> "5. Encourages the Commission on Human Rights to consider the 'draft United Nations declaration on the rights of indigenous peoples', as contained in the annex to resolution 1994/45 of 26 August 1994 of the Subcommission on Prevention of Discrimination and Protection of Minorities, with the participation of representatives of indigenous people, on the basis of and in accordance with appropriate procedures to be determined by the Commission, with a view to achieving the adoption of a draft declaration by the General Assembly within the Decade".

In paragraph 18, the word "Requests" was to be replaced by "Invites", and a new operative paragraph was to be inserted after paragraph 18, reading:

> "Also encourages Governments to consider contributing, as appropriate, to the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean in support of the achievement of the goals of the Decade."

4. The following delegations had asked to become sponsors of the draft resolution: Armenia, Central African Republic, Comoros, Gambia, Nigeria, Russian Federation and Solomon Islands.

5. Draft resolution A/C.3/49/L.26/Rev.1, as orally revised, was adopted.

6. Mr. SUTOYO (Indonesia), explaining his position on the draft resolution, said that his delegation supported United Nations efforts to improve the economic, social and cultural situation of indigenous people and to encourage respect for their traditions and culture. However, it viewed those aims in the context of the enhancement of society at large. In his country, respect was given to all the culturally diverse groups in society; to single out any particular group would amount to discrimination. His delegation understood the term "indigenous people" to refer to the descendants of people who had already

inhabited a geographical region before the arrival of groups which had later became dominant through contest, occupation, settlement or other means.

AGENDA ITEM 100: HUMAN RIGHTS QUESTIONS (continued)

(a) IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS (continued) (A/C.3/49/L.28* and L.29)

Draft resolution A/C.3/49/L.28*

7. The CHAIRMAN recalled that draft resolution A/C.3/49/L.28*, entitled "International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families", had no programme budget implications and that Guatemala had become a sponsor.

8. Ms. ESPINOSA (Mexico) said that Angola, the Comoros and the Sudan had become sponsors of the draft resolution. In paragraph 4, the words "within existing resources" had been inserted after the words "Secretary-General".

9. Draft resolution A/C.3/49/L.28*, as orally revised, was adopted.

Draft resolution A/C.3/49/L.29

10. The CHAIRMAN said that draft resolution A/C.3/49/L.29, entitled "United Nations Voluntary Fund for Victims of Torture", had no programme budget implications. Belgium, Latvia, New Zealand and Tunisia had become sponsors.

11. Mr. VENTEGODT (Denmark) said that Albania and Monaco had become sponsors of the draft resolution. He recalled that an oral amendment had been made to paragraph 8 of the draft resolution at the Committee's 50th meeting. In paragraph 3, the words "Commission on Human Rights" should be replaced by "General Assembly".

12. Draft resolution A/C.3/49/L.29, as orally revised, was adopted.

13. Mrs. HORIUCHI (Japan), explaining her position on the draft resolution, said that her country had been contributing to the Voluntary Fund since 1986 and had doubled its contributions from 1992 onwards. She regretted, therefore, that her delegation had been unable to sponsor the draft resolution owing to certain reservations about its wording.

(e) CAPITAL PUNISHMENT (continued) (A/C.3/49/L.32)

Draft resolution A/C.3/49/L.32

14. The CHAIRMAN announced that Bolivia, Germany, Micronesia and Venezuela had become sponsors of draft resolution A/C.3/49/L.32, entitled "Capital punishment", which had no programme budget implications.

15. Mr. FULCI (Italy) said that the following delegations had become sponsors: Argentina, Cyprus, Dominican Republic, El Salvador, New Zealand, Sao Tome and Principe, Slovakia and Solomon Islands.

16. Mr. CHEW (Singapore) proposed a motion, under rule 116 of the rules of procedure, that no action should be taken on the item. The Committee had thoroughly debated capital punishment and it was clear that there was no consensus on the issue. Action on the draft resolution could only widen the breach between those who supported it and those who opposed it. Those in favour had exercised their sovereign right to accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights. The drafters of that Protocol had acted wisely in making it optional, showing that they realized there was no consensus on the issue and refraining from attempting to impose their views on other sovereign States.

17. Capital punishment was not a human rights issue. No other human rights instruments characterized capital punishment as a violation of human rights. Indeed, the International Covenant explicitly recognized the right of Governments to impose capital punishment, and the sovereign right of Governments to determine legal measures and penalties which were appropriate in their countries to combat serious crimes was enshrined in Article 2 (7) of the Charter of the United Nations.

18. Mr. SAHRAOUI (Algeria) said that the harmonization of national laws was not a matter of concealing the particularities of different judicial systems but rather of taking advantage of their common features. The work of the United Nations in the codification and progressive development of international law had shown that universal adherence to norms, particularly norms which did not derive from customary law, was always determined by the degree to which those norms were compatible, or at any rate not incompatible, with the broad principles on which national legislation was based. The current status of the issue of capital punishment was, in fact, a result of that approach and reflected the objective limits to harmonization of laws on the subject at the international level.

19. Although the sponsors of the draft resolution might not have intended to force a choice on Member States, any vote on the subject of capital punishment would have that effect. Those States whose legislation incorporated capital punishment would have no option but to vote against the draft resolution if they were not to betray their own constitutions or laws. The way for States to make a choice in that regard was by exercising their sovereign right to ratify, or not ratify, the Second Optional Protocol to the International Covenant. His delegation therefore supported the motion for no action on the draft resolution.

20. Mr. FULCI (Italy) said that his delegation was opposed to the motion proposed by Singapore and had hoped that the Committee would be able to vote on the draft resolution without becoming engaged in procedural manoeuvres. The motion called for the fifth procedural vote on sub-item 100 (e), on capital punishment. In the past few weeks, there had been two procedural votes in the General Committee and two in plenary meetings of the General Assembly on that

question. A further attempt had been made to prevent even a discussion of the issue. The motion was, in reality, designed to eliminate the draft resolution, without giving delegations a chance to state their positions on it.

21. If the motion was adopted, it would set a negative precedent, since the request for inclusion of the item had been supported by 34 countries belonging to all the regional groups and draft resolution A/C.3/49/L.32 had been sponsored by almost 50 countries, again from all regions of the world. It would be wrong to conclude that those numbers were insufficient to allow the General Assembly to take a decision on a proposal, or that the draft resolution had to be submitted by a majority of the Member States.

22. There was no need to resort to such a motion in the Third Committee. Human rights questions were of such fundamental importance that artificial obstacles to a debate on the issue could not be justified. It was precisely in the highly sensitive area of human rights that the rules of procedure of the General Assembly should not be used to prevent or delay the decision-making process. The sponsors of the draft resolution realized that the issue of capital punishment was controversial and divisive and, for that very reason, had submitted a balanced, mild and non-intrusive text, focusing on the need to guarantee respect for basic humanitarian principles. If the motion to take no action was adopted, there would be a strong demand from a large sector of world public opinion to reopen the debate on the issue at the next session of the General Assembly and in the years to come. It would then be impossible to argue that time for further reflection was necessary, and the ensuing debate would be even more difficult and confrontational. Accordingly, he urged all delegations to vote against the motion.

23. Mr. RAHIM (Bangladesh) and Mr. ELARABY (Egypt) said that they supported the motion proposed by Singapore.

24. Mr. BIGGAR (Ireland) said that the representative of Italy had explained very eloquently why the motion should be rejected. Draft resolution A/C.3/49/L.32 would not infringe the sovereignty of any country and was not designed to impose the views of certain countries on others. The draft resolution merely called upon States that had not yet done so to consider acceding to or ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights. Since the sponsors had put forward a very balanced text, he urged all States to reject the motion and allow the Committee to take a decision on the draft resolution.

25. A recorded vote was taken on the motion proposed by Singapore.

In favour: Afghanistan, Algeria, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Bhutan, Brunei Darussalam, Burkina Faso, China, Comoros, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Egypt, Fiji, Gabon, Grenada, Guinea, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kuwait, Lebanon, Lesotho, Libyan Arab Jamahiriya, Malawi, Malaysia, Maldives, Mauritania, Mongolia,

Morocco, Myanmar, Nigeria, Oman, Pakistan, Papua New Guinea, Qatar, Republic of Korea, Saint Kitts and Nevis, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Trinidad and Tobago, Uganda, United Arab Emirates, United Republic of Tanzania, Viet Nam, Yemen, Zambia, Zimbabwe.

Against: Andorra, Argentina, Armenia, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Cambodia, Canada, Cape Verde, Central African Republic, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Mexico, Micronesia (Federated States of), Monaco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, Saint Lucia, San Marino, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sweden, the former Yugoslav Republic of Macedonia, Togo, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Vanuatu, Venezuela.

Abstaining: Albania, Azerbaijan, Belarus, Belize, Benin, Botswana, Cameroon, Ethiopia, Gambia, Ghana, Japan, Kazakhstan, Kenya, Mali, Mauritius, Niger, Peru, Philippines, Tunisia, Ukraine.

26. The motion proposed by Singapore was rejected by 65 votes to 74, with 20 abstentions.

27. Mr. CHEW (Singapore) said that the vote on the motion for no action had demonstrated clearly that there was no consensus on draft resolution A/C.3/49/L.32, since those who had voted in favour or had abstained were in the majority. His delegation wished to amend the draft resolution under consideration by proposing the inclusion of an eighth preambular paragraph which would read:

> "Affirming the sovereign right of States to determine the legal measures and penalties which are appropriate in their societies to combat effectively serious crimes,".

28. The proposed amendment was designed to state explicitly what was so far only implied in the draft resolution. Failure to accept it would call into question the adherence of Member States to basic principles of the United Nations Charter.

29. Mr. ELARABY (Egypt) proposed that in the seventh preambular paragraph of the draft resolution, the word "Convinced" should be replaced by the word

"Noting"; in paragraph 1, the words "Calls upon" should be replaced by the word "Invites"; and in paragraph 2, the word "Urges" should be replaced by the word "Encourages".

30. Mr. SREENIVASAN (India) said that under rule 120 of the rules of procedure, as a general rule, no proposal should be discussed or put to the vote unless copies of it had been circulated to all delegations no later than the day preceding the meeting. Accordingly, he proposed that the Committee should defer action on the proposed amendments to a subsequent meeting.

31. Mr. TURK (Slovenia) said that the proposed amendments seemed to be largely in keeping with the overall thrust of the draft resolution and might be acceptable to the sponsors.

32. Mr. FULCI (Italy) said he thought that the sponsors could accept the amendment proposed by Singapore, provided that the word "Affirming" was replaced by the word "Recalling" and the phrase "in conformity with international law" was included. The sponsors could accept the amendments proposed by Egypt and felt that there should be no further amendments and that the text should be adopted by consensus.

33. Mr. CHEW (Singapore) said that he could not accept the first sub-amendment proposed by Italy because one did not recall Charter principles, one affirmed them. Nor could he accept inclusion of the phrase "in conformity with international law".

34. Mr. SREENIVASAN (India) said that his delegation did not wish to negotiate on the text of the draft resolution in an open forum and required instructions from its Government. Accordingly, he reiterated his proposal to defer action on the proposed amendments.

35. Mr. LEGAL (France) said that the proposed amendments were acceptable to his delegation. The proposal by Italy to include the phrase "in conformity with international law" merely recalled a principle of international law which no one disputed. Including that phrase would not impose a restriction on the sovereignty of States and would facilitate the task of reaching agreement on the amendment proposed by Singapore. The Committee might need more time to reach a consensus on the text under consideration.

36. Mr. SUTOYO (Indonesia) and Ms. FENG Cui (China) said that they supported the proposal by India.

37. The CHAIRMAN said he took it that the Committee agreed to the proposal by India to defer action on the amendments proposed to draft resolution A/C.3/49/L.32.

38. It was so decided.

The meeting rose at 11.35 a.m.